



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/746,712	12/21/2000	Joseph Andrew Chinn	CMI-397

SULZER MEDICA USA INC.
Suite 1600
3 East Greenway Plaza
Houston, TX 77046



CONFIRMATION NO. 3630

FORMALITIES LETTER



OC000000005728333

Date Mailed: 02/02/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

02/21/2001 BNGUYEN1 00000049 090473 09746712

FILED UNDER 37 CFR 1.53(b)

01 FC:105 130.00 CH

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 130.**

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **5,6,7** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the Patent and Trademark Office (PTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(i))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the PTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the PTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of

the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the PTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the PTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the PTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

A copy of this notice MUST be returned with the reply.


Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Joseph A. Chinn
R. Michael Casanova

Attorney Docket: CMI-397

S/N: 09/746,712

Group: N/A

Filed: 12/21/00

For: Antibiotic Treated Implantable
Medical Devices

Examiner: N/A



Assistant Commissioner for Patents
Washington, D.C. 20231

**RESPONSE TO NOTICE OF MISSING PARTS AND PETITION TO ACCORD
FILING DATE UNDER 37 C.F.R. §§ 1.53 AND 1.16(i) AND/OR §§ 1.182 AND 1.17(h)**

In response to the Notice of Missing Parts Mailed 02/02/2001, Applicants hereby enclose a declaration signed by the named inventors as required under 37 CFR § 1.63, and the late fee set forth in 37 CFR § 1.16(e).

In addition, Applicants enclose herewith substitute informal drawings (Figures 1-7) for the subject application, and request that these Figures be entered and Figures 1-4 previously submitted with the application be canceled. Because Figures 1-7 hereby submitted were filed on December 20, 2000 in another application by mistake, Applicants hereby petition pursuant to 37 CFR §§ 1.53 and 1.16(i) that the filing date of December 21, 2001 be maintained for the present application, and that the substitute drawings not be deemed new matter.

Should Figures 1-7 be deemed new matter, Applicants petition, in the alternative under 37 C.F.R. §§ 1.182 and 1.17(h), that the subject application be accorded a filing date commensurate with the mailing date of the instant petition, i.e. February 13, 2001. Please charge the petition fee(s) of \$130.00 to Sulzer Medica Deposit Account No. 09-0473.

Applicants note that previously submitted Figures 1-4 were intended to be filed in connection with another application filed by the undersigned attorney on behalf of Applicants' assignee. Through inadvertent and unintentional error, the drawings for the other

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-1-

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02 FC:122 130.00 CH

application were confused with Figures 1-7 submitted herewith, and both sets of drawings were thus filed in connection with the wrong application. Additional details concerning the filing of these two applications are provided in the Declaration of the undersigned attorney accompanying the instant petition.

Respectfully submitted,

02/13/2001
Date

Timothy L. Scott
Timothy L. Scott
Reg. No. 37,931
SULZER MEDICA USA INC.
3 East Greenway Plaza, Suite 1600
Houston, Texas 77046

Phone: (713) 561-6367
Fax: (713) 561-6383

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, DC 20231

on 02/13/01
(Date)

Heather Green
(Name of person making deposit)

Heather Green
(Signature)

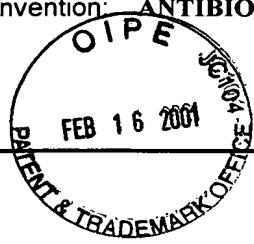
✓ SECTOR 18

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(LargeEntity)	Docket No. CMI-397
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In Re Application Of: Chinn, et al.

Serial No. 09/746,712	Filing Date 12/21/2000	Examiner	Group Art Unit 1762
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Invention: **ANTIBIOTIC TREATED IMPLANTABLE MEDICAL DEVICES**



TO THE ASSISTANT COMMISSIONER FOR PATENTS:
Box Missing Parts

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on 02/02/2001
Date

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). **(REQUIRED)**
- ☒ An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date.
- ☐ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☐ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☒ Other (list):

- 1) Response to Notice of Missing Parts and Petition to Accord Filing Date
- 2) Declaration of Timothy L. Scott
- 3) substitute informal drawings (Figures 1-7)

**Response To Notice To File Missing Parts Of Application
Filing Date Granted (PTO-1533)(LargeEntity)**

Docket No.
CMI-397

In Re Application Of: Chinn, et al.

Serial No.
09/746,712

Filing Date
12/21/2000

Examiner

Group Art Unit
1762

Invention: **ANTIBIOTIC TREATED IMPLANTABLE MEDICAL DEVICES**



TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

☒ Completion of application fees as calculated below:

☐ Utility application filing fee

☐ Design application filing fee

☐ Total number of independent claims = _____

☐ Total number of claims = _____

☐ Multiple dependent claims

☒ Surcharge for late payment of filing fee and/or late filing of original declaration or oath **\$130.00**

☐ Petition and fee for filing by other than all the inventors or a person not the inventor

☐ Fee for processing an application filed with a non-English language specification

☐ Fee for processing and retention of application

Total completion of application fees **\$130.00**

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month

☐ Two months

☐ Three months

☐ Four months

☐ Five months

from: _____
Date

until: _____
Date

Total time extension fees

Total fees due **\$130.00**

**Response To Notice To File Missing Parts Of Application
Filing Date Granted (PTO-1533) (Large Entity)**

Docket No.
CMI-397

In Re Application Of: Chinn, et al.

Serial No.
09/746,712

Filing Date
12/21/2000

Examiner

Group Art Unit
1762

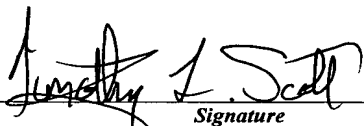
Invention: ANTIBIOTIC TREATED IMPLANTABLE MEDICAL DEVICES

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

The fee of \$130.00 is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 09-0473
A duplicate copy of this sheet is enclosed.
- ☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 09-0473
A duplicate copy of this sheet is enclosed.


Signature

Timothy L. Scott
Reg. No. 37,931
SULZER MEDICA USA INC.
3 East Greenway Plaza, Suite 1600
Houston, Texas 77046

Phone: (713) 561-6374
Fax: (713) 561-6380

Dated: 02/13/2001

I certify that this document and fee is being deposited on 02/13/01 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.


Signature of Person Mailing Correspondence

Heather Green

Typed or Printed Name of Person Mailing Correspondence

CC: